IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:05-CR-251-1H No. 5:12-CV-549-H

KEVIN WASHINGTON,)	
Petitioner,)	
)	
)	
v. UNITED STATES OF AMERICA Respondent.)	ORDER
)	
)	
)	
respondence:	,	

This matter is before the court on petitioner's motion for leave to reopen his original motion to vacate pursuant to 28 U.S.C. § 2255. Petitioner's original § 2255 motion was dismissed on the merits on October 13, 2009. Petitioner attempted to file a second motion to vacate or set aside sentence pursuant to 28 U.S.C. § 2255, on August 20, 2012 [DE #85]. The court, by order [DE #86] filed August 22, 2012, dismissed that motion as a successive § 2255 motion, finding that this court was without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals"). The motion was dismissed without prejudice to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Petitioner now attempts a "work-around" of the rules regarding successive petitions by seeking to re-open his

original § 2255 motion. However, the court finds this motion to be a successive motion as well, and it is therefore dismissed without prejudice to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Because petitioner's motion is dismissed without prejudice to his right to apply to the Fourth Circuit for leave, this order does not raise a substantial issue for appeal concerning the denial of a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This Fî\å day of December 2014.

MALCOLM J. HOWARD

Senior United States District Judge

molech Houring

At Greenville, NC #26